

108TH CONGRESS
2D SESSION

H. R. 5081

To amend title 10, United States Code, to provide for a new program of educational assistance for certain reserve component members of the Armed Forces who perform active service.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2004

Mr. BEAUPREZ (for himself and Mr. SWEENEY) introduced the following bill;
which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to provide for a new program of educational assistance for certain reserve component members of the Armed Forces who perform active service.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EDUCATIONAL ASSISTANCE FOR CERTAIN RE-**
4 **SERVE COMPONENT MEMBERS WHO PER-**
5 **FORM ACTIVE SERVICE.**

6 (a) ESTABLISHMENT OF PROGRAM.—Part IV of sub-
7 title E of title 10, United States Code, is amended by in-
8 serting after chapter 1606 the following new chapter:

1 **“CHAPTER 1607—EDUCATIONAL ASSIST-**
 2 **ANCE FOR RESERVE COMPONENT**
 3 **MEMBERS SUPPORTING CONTIN-**
 4 **GENCY OPERATIONS AND CERTAIN**
 5 **OTHER OPERATIONS**

“Sec.

“16161. Purpose.

“16162. Educational assistance program.

“16163. Eligibility for educational assistance.

“16164. Time limitation for use of entitlement.

“16165. Termination of assistance.

“16166. Administration of program.

6 **“§ 16161. Purpose**

7 “The purpose of this chapter is to provide educational
 8 assistance to members of the reserve components who have
 9 been called or ordered to active service in response to a
 10 war or national emergency declared by the President or
 11 the Congress, in recognition of the sacrifices that those
 12 members make in answering the call to duty.

13 **“§ 16162. Educational assistance program**

14 “(a) PROGRAM ESTABLISHMENT.— The Secretary of
 15 each military department, under regulations prescribed by
 16 the Secretary of Defense, and the Secretary of Homeland
 17 Security with respect to the Coast Guard when it is not
 18 operating as a service in the Navy, shall establish and
 19 maintain a program as prescribed in this chapter to pro-
 20 vide educational assistance to members of the Ready Re-
 21 serve of the armed forces under the jurisdiction of the Sec-
 22 retary concerned.

1 “(b) AUTHORIZED EDUCATION PROGRAMS.—Edu-
2 cational assistance may be provided under this chapter for
3 pursuit of any program of education that is an approved
4 program of education for purposes of chapter 30 of title
5 38.

6 “(c) BENEFIT AMOUNT.—(1) The educational assist-
7 ance program established under subsection (a) shall pro-
8 vide for payment by the Secretary concerned, through the
9 Secretary of Veterans Affairs, an educational assistance
10 allowance to each member entitled to educational assist-
11 ance under this chapter who is pursuing a program of edu-
12 cation authorized under subsection (b).

13 “(2) The educational assistance allowance provided
14 under this chapter shall be based on the applicable percent
15 under paragraph (4) to the applicable rate provided under
16 section 3015 of title 38 for a member whose entitlement
17 is based on completion of an obligated period of active
18 duty of three years.

19 “(3) The educational assistance allowance provided
20 under this section for a person who is undertaking a pro-
21 gram for which a reduced rate is specified in chapter 30
22 of title 38, that rate shall be further adjusted by the appli-
23 cable percent specified in paragraph (4).

24 “(4) The adjusted educational assistance allowance
25 under paragraph (2) or (3), as applicable, shall be—

1 “(A) 40 percent in the case of a member of a
2 reserve component who performed active service for
3 90 consecutive days but less than one continuous
4 year;

5 “(B) 60 percent in the case of a member of a
6 reserve component who performed active service for
7 one continuous year but less than two continuous
8 years; or

9 “(C) 80 percent in the case of a member of a
10 reserve component who performed active service for
11 two continuous years or more.

12 “(d) MAXIMUM MONTHS OF ASSISTANCE.—(1) Sub-
13 ject to section 3695 of title 38, the maximum number of
14 months of educational assistance that may be provided to
15 any member under this chapter is 36 (or the equivalent
16 thereof in part-time educational assistance).

17 “(2)(A) Notwithstanding any other provision of this
18 chapter or chapter 36 of title 38, any payment of an edu-
19 cational assistance allowance described in subparagraph
20 (B) of this paragraph shall not—

21 “(i) be charged against the entitlement of any
22 individual under this chapter; or

23 “(ii) be counted toward the aggregate period for
24 which section 3695 of title 38 limits an individual’s
25 receipt of assistance.

1 “(B) The payment of the educational assistance al-
2 lowance referred to in subparagraph (A) of this paragraph
3 is the payment of such an allowance to the individual for
4 pursuit of a course or courses under this chapter if the
5 Secretary of Veterans Affairs finds that the individual—

6 “(i) had to discontinue such course pursuit as
7 a result of being ordered to serve on active duty
8 under section 12301(a), 12301(d), 12301(g), 12302,
9 or 12304 of this title; and

10 “(ii) failed to receive credit or training time to-
11 ward completion of the individual’s approved edu-
12 cational, professional, or vocational objective as a re-
13 sult of having to discontinue, as described in clause
14 (i), the individual’s course pursuit.

15 “(C) The period for which, by reason of this sub-
16 section, an educational assistance allowance is not charged
17 against entitlement or counted toward the applicable ag-
18 gregate period under section 3695 of title 38 shall not ex-
19 ceed the portion of the period of enrollment in the course
20 or courses for which the individual failed to receive credit
21 or with respect to which the individual lost training time,
22 as determined under subparagraph (B)(ii).

1 **“§ 16163. Eligibility for educational assistance**

2 “(a) ELIGIBILITY.—On or after September 11, 2001,
3 a member of a reserve component is entitled to educational
4 assistance under this chapter if the member—

5 “(1) served on active duty in support of a con-
6 tingency operation for 90 consecutive days or more;
7 or

8 “(2) in the case of a member of the Army Na-
9 tional Guard of the United States or Air National
10 Guard of the United States, performed full time Na-
11 tional Guard duty under section 502(f) of title 32
12 for 90 consecutive days or more when authorized by
13 the President or Secretary of Defense for the pur-
14 pose of responding to a national emergency declared
15 by the President and supported by Federal funds.

16 “(b) DISABLED MEMBERS.—Notwithstanding the eli-
17 gibility requirements in subsection (a), a member who was
18 ordered to active service as prescribed under subsection
19 (a)(1) or (a)(2) but is released from duty before com-
20 pleting 90 consecutive days because of an injury, illness
21 or disease incurred or aggravated in the line of duty shall
22 be entitled to educational assistance under this chapter at
23 the rate prescribed in section 16162(b)(2)(A) of this title.

24 “(c) WRITTEN NOTIFICATION.—(1) Each member
25 who becomes entitled to educational assistance under sub-
26 section (a) shall be given a statement in writing prior to

1 release from active service that summarizes the provisions
2 of this chapter and stating clearly and prominently the
3 substance of sections 16165 and 16166 of this title as
4 such sections may apply to the member.

5 “(2) At the request of the Secretary of Veterans Af-
6 fairs, the Secretary concerned shall transmit a notice of
7 entitlement for each such member to that Secretary.

8 “(d) BAR FROM DUAL ELIGIBILITY.—A member who
9 qualifies for educational assistance under this chapter may
10 not receive credit for such service under both the program
11 established by chapter 30 of title 38 and the program es-
12 tablished by this chapter but shall make an irrevocable
13 election (in such form and manner as the Secretary of Vet-
14 erans Affairs may prescribe) as to the program to which
15 such service is to be credited.

16 “(e) BAR FROM DUPLICATION OF EDUCATIONAL AS-
17 SISTANCE ALLOWANCE.—(1) Except as provided in para-
18 graph (2), an individual entitled to educational assistance
19 under this chapter who is also eligible for educational as-
20 sistance under chapter 1606 of this title, chapter 30, 31,
21 32, or 35 of title 38, or under the Hostage Relief Act of
22 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not
23 receive assistance under more than one such programs and
24 shall elect (in such form and manner as the Secretary con-

cerned may prescribe) under which program the member elects to receive educational assistance.

“(2) The restriction on duplication of educational assistance under paragraph (1) does not apply to the entitlement of educational assistance under section 16131(i) of this title.

“§ 16164. Time limitation for use of entitlement

“(a) DURATION OF ENTITLEMENT.—Except as provided in subsection (b), a member remains entitled to educational assistance under this chapter while serving—

“(1) in the Selected Reserve of the Ready Reserve, in the case of a member was called or ordered to active service while serving in the Selected Reserve; or

“(2) in the Ready Reserve, in the case of a member was ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve).

“(b) DURATION OF ENTITLEMENT FOR DISABLED MEMBERS.—(1) In the case of a person who is separated from the Ready Reserve because of a disability which was not the result of the individual’s own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, such person’s entitlement to educational assistance expires at

1 the end of the 10-year period beginning on the date on
 2 which such person became entitled to such assistance.

3 “(2) The provisions of subsections (d) and (f) of sec-
 4 tion 3031 of title 38 shall apply to the period of entitle-
 5 ment prescribed by paragraph (1).

6 **“§ 16165. Termination of assistance**

7 “Educational assistance may not be provided under
 8 this chapter, or if being provided under this chapter, shall
 9 be terminated—

10 “(1) if the member is receiving financial assist-
 11 ance under section 2107 of this title as a member
 12 of the Senior Reserve Officers’ Training Corps pro-
 13 gram; or

14 “(2) when the member separates from the
 15 Ready Reserve, as provided under section
 16 16164(a)(1) or section 16164(a)(2), as applicable, of
 17 this title.

18 **“§ 16166. Administration of program**

19 “(a) ADMINISTRATION.—Educational assistance
 20 under this chapter shall be provided through the Depart-
 21 ment of Veterans Affairs, under agreements to be entered
 22 into by the Secretary of Defense, and by the Secretary
 23 of Homeland Security, with the Secretary of Veterans Af-
 24 fairs. Such agreements shall include administrative proce-
 25 dures to ensure the prompt and timely transfer of funds

1 from the Secretary concerned to the Department of Vet-
2 erans Affairs for the making of payments under this chap-
3 ter.

4 “(b) PROGRAM MANAGEMENT.—Except as otherwise
5 provided in this chapter, the provisions of sections 503,
6 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485
7 of title 38 and the provisions of subchapters I and II of
8 chapter 36 of such title (with the exception of sections
9 3686(a), 3687, and 3692) shall be applicable to the provi-
10 sion of educational assistance under this chapter. The
11 term ‘eligible veteran’ and the term ‘person’, as used in
12 those provisions, shall be deemed for the purpose of the
13 application of those provisions to this chapter to refer to
14 a person eligible for educational assistance under this
15 chapter.

16 “(c) FLIGHT TRAINING.—The Secretary of Veterans
17 Affairs may approve the pursuit of flight training (in addi-
18 tion to a course of flight training that may be approved
19 under section 3680A(b) of title 38) by an individual enti-
20 tled to educational assistance under this chapter if—

21 “(1) such training is generally accepted as nec-
22 essary for the attainment of a recognized vocational
23 objective in the field of aviation;

24 “(2) the individual possesses a valid private
25 pilot certificate and meets, on the day the member

1 begins a course of flight training, the medical re-
2 quirements necessary for a commercial pilot certifi-
3 cate; and

4 “(3) the flight school courses meet Federal
5 Aviation Administration standards for such courses
6 and are approved by the Federal Aviation Adminis-
7 tration and the State approving agency.

8 “(d) TRUST FUND.—Amounts for payments for bene-
9 fits under this chapter shall be derived from the Depart-
10 ment of Defense Education Benefits Fund under section
11 2006 of this title.”.

12 (b) CONFORMING AMENDMENTS.—(1) Section
13 2006(b) of such title is amended—

14 (A) in paragraph (1), by striking “chapter
15 1606” and inserting “chapters 1606 and 1607, in-
16 cluding funds provided by the Secretary of Home-
17 land Security for education liabilities for the Coast
18 Guard when it is not operating as a service in the
19 Department of the Navy”; and

20 (B) in paragraph (2)(C), by striking “for edu-
21 cational assistance under chapter 1606” and insert-
22 ing “(including funds from the Department in which
23 the Coast Guard is operating) for educational assist-
24 ance under chapters 1606 and 1607”.

1 (2) Section 3695(a)(5) of title 38, United States
 2 Code, is amended by inserting “1607,” after “1606,”.

3 (c) CLERICAL AMENDMENT.—The tables of chapters
 4 at the beginning of subtitle E of title 10, United States
 5 Code, and at the beginning of part IV of such subtitle,
 6 are amended by inserting after the item relating to chap-
 7 ter 1606 the following new item:

“1607. Educational Assistance for Reserve Component Members Sup-
 porting Contingency Operations and Certain Other
 Operations 16161”.

